

PATENT
Serial No. 10/816,645
Amendment in Reply to Final Office Action of August 18, 2006

IN THE DRAWING

Please replace FIGs. 4 and 5 with the enclosed replacement
FIGs. 4 and 5.

PATENT
Serial No. 10/816,645

Amendment in Reply to Final Office Action of August 18, 2006

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Office Action dated August 18, 2006. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "6" has been used to designate allegedly different parts in different embodiments because "6" is used to reference a round rod, square rod and a square rod with round edges as shown in Figs. 1, 4 and 5, respectively. Accordingly, Figs. 4 and 5 have been amended to show rods 6a and 6b, respectively, so reference character "6" does not describe different shaped rods. Replacement drawing sheets including new FIGs. 4 and 5 are enclosed for inspection and approval. Applicant respectfully requests withdrawal of the drawings objection and approval of the enclosed replacement drawings.

The drawings are objected to under 37 CFR 1.83(a) for allegedly not showing every feature of the invention specified in the claims. The Office Action alleges on page 2, section 3 that

PATENT
Serial No. 10/316,645

Amendment in Reply to Final Office Action of August 18, 2006

the rod having a combination of straight and curved edges that vary in configuration along the length of the rod (as recited in Claim 33) is not shown in the drawings. The Applicants respectfully disagree because, for example, FIGs. 3-5 rods may be combined together to show the noted features. If rod 6a and 6b are combined by placing them end to end, the drawings show the "the rod having a combination of straight and curved edges that vary in configuration along the length of the rod" because a combined rod would show straight and curved edges and a configuration that would vary along their length because rod 6a and 6b have different configurations. The specification is amended herein to refer to this feature of the claims as contained in the originally filed claims (such as originally filed claim 15) and therefore is not new matter. Accordingly, Applicants respectfully request withdrawal of the drawing objection.

With respect to the use of "can" in claims 22 and 23 and the use of "when" in claim 21, the claims have been amended to remove these terms. Therefore, claims 21, 22 and 23 are in proper form and the Applicants respectfully request withdrawal of the objection.

PATENT
Serial No. 10/816,645

Amendment in Reply to Final Office Action of August 18, 2006

In the Final Office Action, the Claims 19-37 are rejected under the non-statutory, judicially created doctrine of double patenting as being unpatentable over Claim 1 of commonly owned U.S. Patent No. 6,783,269 (Pashley) in view of U.S. Patent No. 4,954,931 (Hassler). The Final Office Action states that a timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application.

In response, a Terminal Disclaimer in compliance with 37 C.F.R. §1.321(c) is enclosed herewith. Accordingly, the Applicant respectfully requests that this ground for rejection be withdrawn.

In the Final Office Action, Claim 37 is rejected under 35 U.S.C. §102(e) as allegedly anticipated by U.S. Patent No. 6,488,397 (Masutani). Additionally, Claims 19-30, 37 and 38 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Masutani in view of U.S. Patent No. 4,954,931 (Hassler). Claims 31-33 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Masutani in view of Hassler, and further in

PATENT
Serial No. 10/816,645

Amendment in Reply to Final Office Action of August 18, 2006

view of Official Notice. Claim 34 is also rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Masutani in view of U.S. Patent No. 5,390,466 (Ashall). The Office Action also rejects Claims 35-36 under 35 U.S.C. § 103(a) as being unpatentable over Masutani in view of U.S. Patent No. 6,267,492 (Reid). It is respectfully submitted that claims 19-42 are patentable over Masutani, Hassler, Ashall and Reid for at least the following reasons.

Masutani is directed to a light emerging device composed of a light transmission cylinder coupled with a reflecting layer (See, Abstract). As shown in Fig.2 of Masutani, the reflecting layer 5 is uniform in width along the length of the cylinder. The Office Action states that Masutani does not disclose "the outcoupling material being distributed along an angular width in such a way as to ensure uniform light distribution along the length of the rod as recited in claims 19 and 18". (See, Office Action, page 11, section 31.)

Hassler is directed to a light transmission device 11 with a window 59 which transmits from the device (see, Abstract). Window 59 is formed by sandblasting or chemically etching the surface 45

PATENT
Serial No. 10/816,645

Amendment in Reply to Final Office Action of August 18, 2006

of device 11. (See, column 3, lines 18-20.) This forms a frosting which transmits as opposed to reflects light (see, column 3, lines 21-22).

According to the Examiner, it would have been obvious to adjust the angular width of the outcoupling material of Masutani to ensure uniform light distribution along the length of the rod, as per the teachings of Hassler. The Applicants respectfully disagree.

It is respectfully submitted that the mere fact that references can be combined or modified does not render the resulting combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). In the present rejections, the Examiner has not identified any teaching or suggestion or motivation in the Hassler for adjusting the reflective outcoupling material in Masutani. Hassler shows a transmissive window etched into the surface of the light transmitting device while Masutani shows a reflective coating on the light transmitting device. Hassler states that "the frosting forms a surface which transmits as opposed to reflects". (See, column 3, lines 21-22.) The window

PATENT
Serial No. 10/816,645

Amendment in Reply to Final Office Action of August 18, 2006

in Hassler transmits light as opposed to reflects light so actually teaches away from using a reflective coating as in the present invention. A person skilled in the art would not look to the transmissive window etched into Hassler to adjust the angular width of the uniform reflective coating in Masutani. Therefore, there is no motivation to combine these references because Hassler actually teaches away from using a reflective coating.

While the Examiner considers there to be motivation, that motivation is only apparent in view of the teachings in the present application, not from the cited art. Accordingly, the rejection is premised on hindsight and must be withdrawn.

Further, in arguendo, even if the Hassler and Masutani references are combined they do not disclose the claims of the present invention. Specifically they do not show, even in combination, a (emphasis added) "reflective outcoupling material that varies along the length of the rod to provide substantially uniform light distribution" as required by independent claims 19, 37 and 38. As shown in Fig. 2 of Masutani, the reflective layer 5 is uniform in width along the length of the rod. Hassler does not show a reflective material that varies in width. Hassler merely

PATENT
Serial No. 10/816,645

Amendment in Reply to Final Office Action of August 18, 2006

shows a transmissive window formed by etching or blasting the surface of the device 11. Hassler does not show a "layer" or "material" because it is etched into the surface of device 11 so, even in combination with Masutani, do not show the requirements of claims 19, 37 and 38 in the present invention. Therefore, it is respectfully submitted that the references in combination do not show the reflective outcoupling material affixed to an outer surface of the rod that varies along the length of the rod as required by claims 19, 37 and 38.

Further, Hassler, Masutani or any combination thereof do not disclose or suggest, a system comprising, "reflective outcoupling material is distributed in a series of stripes perpendicular to the length of the rod to provide substantially uniform light distribution along the length of the rod" as required by claim 39.

Based on the foregoing, the Applicants respectfully submit that independent claims 19, 37, 38 and 39 are patentable over Masutani and Hassler and notice to this effect is earnestly solicited. Claims 20-36, 40-42 depend from claim 1 and accordingly are allowable for at least these reasons as well as for the separately patentable elements contained in the claims. Ashall and

PATENT
Serial No. 10/816,645

Amendment in Reply to Final Office Action of August 18, 2006

Reid are introduced for rejecting dependent claims and do not cure the defects in Musatani and Hassler.

For example, Ashall does not show a reflective outcoupling material comprises a combination of white paint and fine dots with varying packing density as required by dependent claim 34. Ashall is directed to an illuminated display system which has a transparent medium having two opposing surfaces to be illuminated wherein both of said surface to be illuminated has a matrix of dots substantially covering said surfaces to be illuminated (see, column 1, line 65 to column 2, line 2). In Ashall, the paint dots are applied to the surface they are meant to illuminate. The paint dots in Ashall are used to illuminate the surface they are applied to, or in other words, to transmit light rather than reflect light. Since Ashall does not disclose paint dots that reflect light, Ashall does not show a reflective outcoupling material comprising a combination of white paint and fine dots as required by claim 34 of the present invention. Therefore, dependent claim 34 is respectfully submitted for allowance for at least these further reasons. Accordingly, separated consideration of the dependent claims is respectfully requested.

PATENT
Serial No. 10/816,645
Amendment in Reply to Final Office Action of August 18, 2006

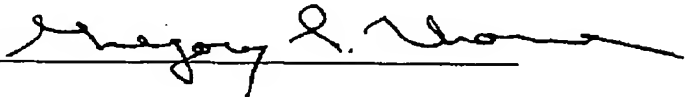
In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

It is believed that no additional fees or charges are currently due for entrance of the accompanying amendment other than those paid by the attached credit card authorization for filing of the terminal disclaimer. However, in the event that any additional fees or charges are required for entrance of the accompanying amendment, they may be charged to Applicant's representatives Deposit Account No. 50-3649. In addition, please credit any overpayments related to any fees paid in connection with the accompanying amendment to Deposit Account No. 50-3649.

PATENT
Serial No. 10/816,645
Amendment in Reply to Final Office Action of August 18, 2006

Applicant has made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

Gregory L. Thorne, Reg. 39,398
Attorney for Applicant(s)
October 18, 2006

Enclosures: 2 pages replacement drawing sheets
Terminal Disclaimer
Credit Card Authorization to charge credit card \$130
terminal disclaimer fee

THORNE & HALAJIAN, LLP
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101